IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 456/2005

1. Smt. Shrimati Arjun Ghawal,
(Expired) widow of late
Arjun Ghatwal, r/o. H.No. 1216,
Poira, Bicholim, Goa.

2. Shri Gurudas Arjun Ghatwal,
s/o. Late Arjun Ghatwal
major, married, service,
r/o. H.No. 1216, Bicholim,

3. Shri Ashok Arjun Ghatwal,
major, son of late Arjun Ghatwal,
married, service,
r/o. (H.No. Not known),
Poira, Bicholim.

4. Smt. Vishwavati Vishwanath
Gaunkar, w/o. Vishwanath Gaunkar,
of full age, housewife,
r/o. (H.No. Not known),
Vaigani of Mayem, Bicholim,

5. Smt. Laxmi Surya Kerkar,
w/o. Surya Kerkar, major,
married, r/o.(H.No. Not known)
Kitla, Haldona, Bardez, Goa.

6. Smt. Sita Ramchandra Mandrekar,
w/o. Ramchandra Mandrekar,
major, housewife,
r/o. (H.No. Not known),
Sakhli, Karapur,

7. Smt. Anandi Achutanand Nagvenkar,
w/o. Achutanand Nagvenkar,
housewife, r/o. (H.No. Not known),
Baga, Kalangute, Bardez, Goa.

8. Subhangi Gurudas Ghatwal,
r/o. Poira, Bicholim, Goa.

9. Ashma Ashok Ghatwal,
   r/o. Poira, Bicholim, Goa.

10. Vinayak Vishwanath Gaunkar,

11. Vinanti Vinayak Gaunkar,

12. Dnyneshwar V. Gaunkar,

13. Vaheeda D. Gaunkar,

14. Satyawan V. Gaunkar,

15. Mrs. Sunanda S. Gaunkar,

All r/o. Vaigini Mayem,
Bicholim, Goa.

16. Mrs. Daya Naik,

17. Mr. Datta Naik,
   Both r/o. Kundai, Goa.

18. Mrs. Bharati Ghatwal,

19. Mr. Kashinath Ghatwal,
   r/o. Sirgao, Bicholim, Goa.

20. Mr. Surya Kerkar,
   r/o. Quitla, Aldona, Bardez, Goa,

21. Mr. Ramchandra Mandrekar,
   r/o. Karapur, Sanquelim, Goa.

22. Mr. Atchutanand Nagvekar,
   r/o. Baga, Calangute,
   Bardez, Goa. ..... Petitioners.

V/s.

1. Ganesh Arjun Ghatwal,
   (since deceased) by legal representatives :

   a) Smt. Shobhavati Ganesh Ghatwal
      w/o. Ganesh Ghatwal,
      r/o. H.No. 1216, Poira, Bicholim

(Appellant No.2)

b) Mr. Sandeep Ganesh Ghatwal,
s/o. Late Ganesh Ghatwal,
major of age, married to

c) Mrs. Shila Sandeep Ghatwal,

d) Mr. Suraj Ganesh Ghatwal,
s/o. Late Ganesh Ghatwal,

e) Mrs. Sushal Suraj Ghatwal,
All residents of Poira, Bicholim
Goa, H.No. 1216,

f) Miss Leena Ganesh Ghatwal,
daughter of late Ganesh Ghatwal,
married to

f(a) Mr. Mahesh Madhukar Gadekar,
New Vaddem, Near Saibaba
Temple, Vasco – Goa.

g) Mrs. Deepa Dinkar Kalangutkar,
daughter of late Ganesh Ghatwal,
married to :

h) Mr. Dinkar Kalangutkar,

Both r/o. Walshi Housing Board,
Bicholim, Goa.

i) Mrs. Chaya Prakash Vazarkar,
Daughter of late Ganesh Ghatwal,
married to :

j) Mr. Prakash Vazarkar,
r/o. Virdi, Sanquelim, Vazari, Goa. ..... Respondents.

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. V. Korgaonkar, Advocate for the petitioners.

Mr. S. D. Lotlikar, Senior Advocate with Ms. K. Sambari, Advocate for respondents No.1(a) to 1(e), 1(g), 1(h) to 1(j).

CORAM : R.M.S. KHANDEPARKAR, J.

DATE : 2ND FEBRUARY, 2006.

ORAL JUDGMENT :

Heard. Rule. By consent the rule is made returnable forthwith.

2. The learned Senior Counsel for the respondents has fairly conceded that the question of proceeding under Order 21, Rule 41 of C.P.C. in the matter does not arise. However, the respondents will have right to raise objections as regards the extent of their liability in respect of the decretal amount. It is not necessary to go into the said issue at this stage. Suffice it to observe that the impugned order cannot be sustained and, therefore, by consent the same is set aside and the matter is remanded to the Executing Court to deal with the application filed by the petitioner on 22.11.2004, in accordance with the provisions of law. Rule is made absolute, accordingly, with no order as to costs.

R.M.S. KHANDEPARKAR, J.

ssm.